

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

March 16, 2022

1:33 p.m.

DRAFT

MEMBERS PRESENT

Senator Roger Holland, Chair
Senator Shelley Hughes
Senator Robert Myers
Senator Jesse Kiehl

MEMBERS ABSENT

Senator Mike Shower, Vice Chair

COMMITTEE CALENDAR

SENATE BILL NO. 115

"An Act relating to confidentiality of information; relating to the duties of the Department of Administration; creating an address confidentiality program; and providing for an effective date."

- MOVED CSSB 115(JUD) OUT OF COMMITTEE

SENATE BILL NO. 161

"An Act relating to the definition of 'political party'; and providing for an effective date."

- MOVED CSSB 161(JUD) OUT OF COMMITTEE

SENATE BILL NO. 189

"An Act relating to sex trafficking; establishing the crime of patron of a victim of sex trafficking; relating to the crime of human trafficking; relating to sentencing for sex trafficking and patron of a victim of sex trafficking; establishing the process for a vacatur of judgment for a conviction of prostitution; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 115

SHORT TITLE: ADDRESS CONFIDENTIALITY PROGRAM

SPONSOR(s): SENATOR(s) KIEHL

03/31/21	(S)	READ THE FIRST TIME - REFERRALS
03/31/21	(S)	STA, JUD, FIN
05/06/21	(S)	STA AT 3:30 PM BUTROVICH 205
05/06/21	(S)	Heard & Held
05/06/21	(S)	MINUTE(STA)
02/17/22	(S)	STA AT 3:30 PM BUTROVICH 205
02/17/22	(S)	Scheduled but Not Heard
03/01/22	(S)	STA AT 3:30 PM BUTROVICH 205
03/01/22	(S)	-- MEETING CANCELED --
03/03/22	(S)	STA AT 3:30 PM BUTROVICH 205
03/03/22	(S)	Moved SB 115 Out of Committee
03/03/22	(S)	MINUTE(STA)
03/04/22	(S)	STA RPT 3DP 2NR
03/04/22	(S)	DP: SHOWER, COSTELLO, KAWASAKI
03/04/22	(S)	NR: REINBOLD, HOLLAND
03/14/22	(S)	JUD AT 1:30 PM BUTROVICH 205
03/14/22	(S)	Heard & Held
03/14/22	(S)	MINUTE(JUD)
03/16/22	(S)	JUD AT 1:30 PM BUTROVICH 205

BILL: SB 161

SHORT TITLE: POLITICAL PARTY DEFINITION

SPONSOR(s): SENATOR(s) WIELECHOWSKI

01/18/22	(S)	READ THE FIRST TIME - REFERRALS
01/18/22	(S)	STA, JUD
02/17/22	(S)	STA AT 3:30 PM BUTROVICH 205
02/17/22	(S)	Heard & Held
02/17/22	(S)	MINUTE(STA)
03/01/22	(S)	STA AT 3:30 PM BUTROVICH 205
03/01/22	(S)	-- MEETING CANCELED --
03/03/22	(S)	STA AT 3:30 PM BUTROVICH 205
03/03/22	(S)	Moved SB 161 Out of Committee
03/03/22	(S)	MINUTE(STA)
03/04/22	(S)	STA RPT 4NR 1DP
03/04/22	(S)	NR: SHOWER, COSTELLO, REINBOLD, HOLLAND
03/04/22	(S)	DP: KAWASAKI
03/14/22	(S)	JUD AT 1:30 PM BUTROVICH 205
03/14/22	(S)	Heard & Held
03/14/22	(S)	MINUTE(JUD)
03/16/22	(S)	JUD AT 1:30 PM BUTROVICH 205

BILL: SB 189

SHORT TITLE: CRIME OF SEX/HUMAN TRAFFICKING

SPONSOR(s) : RULES BY REQUEST OF THE GOVERNOR

02/15/22	(S)	READ THE FIRST TIME - REFERRALS
02/15/22	(S)	JUD, FIN
02/28/22	(S)	JUD AT 1:30 PM BUTROVICH 205
02/28/22	(S)	Heard & Held
02/28/22	(S)	MINUTE(JUD)
03/02/22	(S)	JUD AT 1:30 PM BUTROVICH 205
03/02/22	(S)	Heard & Held
03/02/22	(S)	MINUTE(JUD)
03/04/22	(S)	JUD AT 1:30 PM BUTROVICH 205
03/04/22	(S)	Heard & Held
03/04/22	(S)	MINUTE(JUD)
03/07/22	(S)	JUD AT 1:30 PM BUTROVICH 205
03/07/22	(S)	Heard & Held
03/07/22	(S)	MINUTE(JUD)
03/09/22	(S)	JUD AT 1:30 PM BUTROVICH 205
03/09/22	(S)	Heard & Held
03/09/22	(S)	MINUTE(JUD)
03/11/22	(S)	JUD AT 1:30 PM BUTROVICH 205
03/11/22	(S)	<Bill Hearing Rescheduled to 03/14/22>
03/14/22	(S)	JUD AT 1:30 PM BUTROVICH 205
03/14/22	(S)	<Bill Hearing Canceled>
03/16/22	(S)	JUD AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

EDRIC CARRILLO, Staff
Senator Jesse Kiehl
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions on behalf of the sponsor of SB 115.

SENATOR BILL WIELECHOWSKI
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 161.

ED KING, Staff
Senator Roger Holland
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Explained the committee substitute (CS) changes for SB 189, from Version A to Version B, on behalf of the committee.

JOHN SKIDMORE, Deputy Attorney General
Office of the Attorney General
Criminal Division
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Answered legal questions on the committee substitute (CS) for SB 189, Version A to Version B.

NANCY MEADE, General Counsel
Administrative Offices
Alaska Court System
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the discussion of SB 189.

ACTION NARRATIVE

[1:33:39 PM](#)

CHAIR ROGER HOLLAND called the Senate Judiciary Standing Committee meeting to order at 1:33 p.m. Present at the call to order were Senators Myers, Hughes, Kiehl, and Chair Holland.

SB 115-ADDRESS CONFIDENTIALITY PROGRAM

[1:34:15 PM](#)

CHAIR HOLLAND announced the consideration of SENATE BILL NO. 115 "An Act relating to confidentiality of information; relating to the duties of the Department of Administration; creating an address confidentiality program; and providing for an effective date."

[SB 115 was previously heard on 3/14/22, and public testimony was opened and closed.]

[1:34:33 PM](#)

CHAIR HOLLAND solicited amendments, and there were none.

[1:35:34 PM](#)

SENATOR MYERS referred to the federal requirement for Real ID compliant driver's licenses. He explained that applicants must supply their residence address to the Division of Motor Vehicles (DMV). He wondered how that would impact the mail forwarding program in the bill.

SENATOR KIEHL responded that he checked with DMV, and applicants must supply their physical residence address to the DMV in order to obtain a Real ID. However, if someone has a confidential

address, the DMV will keep it confidential. He indicated that DMV would only provide the post office box established under the bill, not the physical address.

1:37:04 PM

EDRIC CARRILLO, Staff, Senator Jesse Kiehl, Alaska State Legislature, Juneau, Alaska, agreed, adding that DMV's data is confidential per AS 28.15.151.

1:37:37 PM

SENATOR HUGHES indicated that except for domestic violence or sexual assault victims, she continued to have reservations because everyone else would have the option to open a post office box. Although the sponsor assured her that only about 900 individuals would participate in the mail-forwarded program, it will take the Department of Administration's (DOA) staff time to accomplish mail forwarding. She noted DOA submitted an indeterminate fiscal note. She stated her intention not to hold up the bill.

1:38:25 PM

SENATOR KIEHL thanked the Department of Administration's Shared Services of Alaska for their work. He highlighted that the director, Mr. Brad Ewing, has helped by contacting administrators of other states' programs to determine what the department would need to do to implement the program.

1:39:08 PM

SENATOR HUGHES asked if other states were adding law enforcement or correctional officers to those who would receive mail confidentially or if other states limited it to victims.

SENATOR KIEHL answered that other states only provide this service for victims and survivors of certain crimes, usually domestic violence or sexual assault. He noted that if he only included an estimate of victims and survivors that his calculation would have been approximately 600 individuals would participate in the program. He stated that he allowed a generous guess for the number of law enforcement and correctional officers who might take advantage of this.

1:40:03 PM

SENATOR MYERS moved to report the committee substitute (CS) for SB 115, work order 32-LS0380\G, from committee with individual recommendations and attached fiscal note(s).

CHAIR HOLLAND heard no objection, and CSSB 115(JUD) was reported from the Senate Judiciary Standing Committee.

[1:40:36 PM](#)

At ease

SB 161-POLITICAL PARTY DEFINITION

[1:42:13 PM](#)

CHAIR HOLLAND reconvened the meeting and announced the consideration of SENATE BILL NO. 161 "An Act relating to the definition of 'political party'; and providing for an effective date."

[SB 161 was previously heard on 3/14/22, and public testimony was opened and closed.]

[1:42:53 PM](#)

SENATOR MYERS moved to adopt Conceptual Amendment 1.

After each decennial federal census, the Division of Elections shall by regulation adjust this number by the percentage the state's population has changed since the 2020 decennial federal census, rounded to the nearest 500.

CHAIR HOLLAND objected for discussion purposes.

[1:43:05 PM](#)

At ease

[1:43:20 PM](#)

CHAIR HOLLAND reconvened the meeting.

[1:43:26 PM](#)

SENATOR MYERS restated the motion to move Conceptual Amendment 1, on page 1, [line 6] after "state" insert:

After each decennial federal census, the Division of Elections shall by regulation adjust this number by the percentage the state's population has changed since the 2020 decennial federal census, rounded to the nearest 500.

[1:43:49 PM](#)

SENATOR MYERS explained that it had been nearly 40 years since the legislature updated this statute. He expressed concern that

it might be another 40 years before it would be considered again. He stated the intent was to keep the statute updated. He said he agreed with the sponsor's goal, which would lower the barrier to becoming a political party and remove the complicated formula from statute.

[1:44:51 PM](#)

CHAIR HOLLAND asked for the sponsor's comments.

SENATOR BILL WIELECHOWSKI, Alaska State Legislature, Juneau, Alaska, sponsor of SB 161, stated that he did not object to Conceptual Amendment 1. He asked for clarification that this would not apply to the 2020 census. He stated his preference to retain 5,000 as the threshold figure and adjust it to the nearest 500 rather than to put in .68 percent, which was in the Legislative Legal draft amendment A.1 [not offered]. He said the intent was to keep it simple so parties could view a specific figure in statute.

[1:46:02 PM](#)

SENATOR HUGHES said she liked tying it to the 5,000 population figure. She recalled the bill sponsor indicated it would be "rounded to the nearest 500." She asked if this referred to rounding the population or the registered party members to the nearest 500.

SENATOR MYERS envisioned that the required party members would be rounded to the nearest 500, which is how Conceptual Amendment 1 is written. He suggested that if [a political party with at least] 5,000 registered voters in the state changed in the next census to 5,427, it would be rounded up 5,500, but if it increased to 5,700 in the next election, the figure would be rounded down to 5,500.

[1:47:18 PM](#)

SENATOR HUGHES said she was unsure about how Conceptual Amendment 1 was written. She pointed out that the closest noun was "population." Thus, she thought it was important for the record to reflect his intent.

[1:47:32 PM](#)

CHAIR HOLLAND stated that he would probably maintain his objection because he preferred the "bright line" of an exact number. He was uncomfortable relating this to the 2030 decennial federal census and he was unsure of the specific language once Legislative Legal made any conforming and technical changes.

[1:48:06 PM](#)

CHAIR HOLLAND maintained his objection.

[1:48:22 PM](#)

A roll call vote was taken. Senators Hughes, Myers, and Kiehl voted in favor of Conceptual Amendment 1, and Senator Holland voted against it. Therefore, Conceptual Amendment 1 was adopted by a 3:1 vote.

[1:48:56 PM](#)

SENATOR HUGHES wondered if the Division of Elections would post the figure after the 2030 census or if people would need to calculate it themselves.

SENATOR WIELECHOWSKI responded that he strongly suspects that the Division of Elections would post those figures online.

CHAIR HOLLAND asked Senator Wielechowski if he had final comments on SB 161.

[1:49:47 PM](#)

SENATOR WIELECHOWSKI stated that he does not have any strong views on the amendments to the bill. However, he would not object to removing the amendment language on the Senate floor if it didn't come out the way the committee intended.

[1:50:06 PM](#)

SENATOR HUGHES moved to report the committee substitute (CS) for SB 161, work order 32-LS1361\A, as amended, from committee with individual recommendations and attached fiscal note(s).

CHAIR HOLLAND found no objection, and CSSB 161(JUD) was reported from the Senate Judiciary Standing Committee.

[1:50:41 PM](#)

At ease

SB 189-CRIME OF SEX/HUMAN TRAFFICKING

[1:52:24 PM](#)

CHAIR HOLLAND reconvened the meeting and announced the consideration of "An Act relating to sex trafficking; establishing the crime of patron of a victim of sex trafficking; relating to the crime of human trafficking; relating to sentencing for sex trafficking and patron of a victim of sex trafficking; establishing the process for a vacatur of judgment

for a conviction of prostitution; and providing for an effective date."

[SB 189 was previously heard on 2/28/22, 3/2/22, 3/4/22, 3/7/22, and 3/9/22. Public testimony was opened and closed on 3/4/22.]

CHAIR HOLLAND solicited a motion.

[1:52:43 PM](#)

CHAIR HOLLAND moved to adopt the committee substitute (CS) for SB 189, work order 32-GS2029\B, as the working document. He stated his intention to withdraw the committee substitute after the committee discusses it.

[1:53:04 PM](#)

SENATOR MYERS objected for discussion purposes.

[1:53:17 PM](#)

ED KING, Staff, Senator Roger Holland, Alaska State Legislature, Juneau, Alaska, explained the changes in the committee substitute (CS) for SB 189, from Version A to Version B on behalf of the committee. He stated that Version B represents a significant restructuring of the bill.

[1:53:24 PM](#)

MR. KING reviewed the changes from Version A to Version B.

SUMMARY OF CHANGES
(VERSION A TO VERSION B)

- I. The bill was redrafted to conform with legislative drafting guidelines. This resulted in several technical and conforming changes throughout the bill.
- II. Version B leaves the sex trafficking statutes in 11.66 and amends the current law. This change in drafting required conforming changes throughout the bill.
- III. There were five clarifying changes to the vacation of judgment process. The bill now:
 - a. Explicitly states that the petition is granted if no action is taken (page 20, lines 28-29)
 - b. Clarifies that the petitioner is not entitled to a jury trial (page 21, line 4)

- c. Directs the court to remove a case from court view within 30 days, only if there are no felony charges involved (page 21, lines 20 and 25)
- d. Clarifies that the petitioner is entitled to a public defender (page 22, lines 28 and 31)
- e. Delays the effective date for the vacation of judgment process to give the court system time to develop forms and procedures (page 28, line 23)

1:54:40 PM

CHAIR HOLLAND asked Mr. Skidmore to address keeping sex trafficking in AS 11.66 versus moving it to AS 11.41.

1:55:02 PM

JOHN SKIDMORE, Deputy Attorney General, Office of the Attorney General, Criminal Division, Department of Law, Anchorage, Alaska, stated that AS 11.41 relates to crimes against a person and AS 11.66 is characterized as crimes against public decency. He related that when the statutes were initially adopted in 1978, they related to promoting prostitution. He said the crime of prostitution is seen as infringing on public decency. However, the state changed the crime title from promoting prostitution to sex trafficking in 2007. A Loyola Marymount University article studying sex trafficking in 2019 said that it was only in 2013 that the country began to recognize the harms or ills associated with human trafficking or sex trafficking.

1:56:32 PM

MR. SKIDMORE reminded members of his opening remarks that characterized sex trafficking as modern-day slavery. It is someone subjugating another human being to be a sex slave.

MR. SKIDMORE asked members to consider the legislature's statutes in the last 50 years and whether the legislature treats crimes against a person in AS 11.41 differently than they treat other crimes in Title 11. He offered his view that the answer is yes. He provided examples, including that AS 12.30.055 relates to a petition to revoke probation pertaining to supervised felons who have violated their probation, and AS 12 provides the right to bail, except for AS 11.41 offenses relating to crimes against a person.

MR. SKIDMORE referred to protections provided to victims in AS 12.45.042, which says the ability to compel those mental exams is limited and cannot be done to a victim of an AS 11.41 crime. The defense cannot compel a mental examination to determine if

the victim has some mental ailment that somehow contributed to the crime.

[1:58:26 PM](#)

MR. SKIDMORE referred to AS 11.45.066, which states that if a victim is under the age of 16, they are entitled to a guardian ad litem, who can ask the court to have the victim testify by closed-circuit television. This exception is not available to any victims of crimes outside AS 11.41. He referred to AS 12.61.010 (15) and AS 12.61.120, which protect the release of a victim's address and phone number and applies to an 11.41 crime. He referred to investigations in AS 12.50.201 that allow law enforcement authority to temporarily detain witnesses when it relates to AS 11.41 crimes. He added they only need reasonable suspicion to detain witnesses.

[1:59:29 PM](#)

MR. SKIDMORE detailed sentencing issues, including AS 12.55.011, where a victim or a defendant can recommend to the judge what they think the sentence should be at the time of sentencing except for a crime listed in AS 11.41 because it is a crime against a person.

MR. SKIDMORE provided another example, such that AS 12.55.027(g)(1) allows electronic monitoring credit to be applied if the person had electronic monitoring pretrial for crimes except those that fall under AS 11. AS 12.55.127, allows for concurrent sentencing for two crimes but not for crimes under AS 11.41; those sentences must be consecutive.

[2:00:22 PM](#)

MR. SKIDMORE emphasized that the legislature has made policy decisions throughout the criminal statutes that committing a crime against a person is fundamentally different from the other types of crimes. He suggested that the committee must decide if sex trafficking is a crime against public decency, such as prostitution, or if sex trafficking is a crime that targets the most vulnerable people, including runaway youths, addicts, and the homeless.

[2:01:06 PM](#)

MR. SKIDMORE referred to the elements of the crimes. He pointed out that those engaged in sex trafficking are not people engaged in commercial sexual conduct because they chose to do so but because they were either forced to or were minors influenced by someone much older than them to engage in commercial sexual conduct. He opined that the way sex trafficking happens

indicates that this crime is a crime against a person, not against society or decency. He acknowledged that sex trafficking does violate those things, but it also harms the victim of sex trafficking. Therefore, the administration finds it is more appropriately categorized as an AS 11.41 crime.

2:02:00 PM

MR. SKIDMORE highlighted that the legislature, as the policy-making body, must decide how to characterize and classify that criminal conduct. He suggested that if the legislature determines that sex trafficking is a crime against a person, it should carry additional safeguards or penalties that the legislature has decided should apply to AS 11.41 crimes.

2:02:49 PM

SENATOR MYERS commented that he tended to agree with Mr. Skidmore's opening remarks that sex trafficking is modern-day slavery. He said if sex trafficking is not a crime against a person, he wasn't sure what would be categorized as one.

2:03:15 PM

SENATOR KIEHL asked whether the crime of prostitution includes buying and selling sex and those crimes are separate from sex trafficking. He wondered whether he suggested moving prostitution to AS 11.41 or leaving it in AS 11.66.

MR. SKIDMORE answered that prostitution is considered a crime of public decency and is not a crime against a person in the same manner as sex trafficking.

2:04:06 PM

SENATOR HUGHES commented that he made an excellent case for sex trafficking to fall under AS 11.41.

2:04:30 PM

CHAIR HOLLAND related his understanding that the department had some resistance to moving sex trafficking from one section of statutes to a different one. He asked whether other statutes were relocated in Alaska law based on some new interpretation.

MR. SKIDMORE responded that he did not know. He offered that the drafting manual indicates that statutes should not be moved unless there was a substantive change to the underlying statute. He stated that the revisor of statutes could determine where statutes are appropriately placed. He surmised that the administration did not present any rationale to support including sex trafficking in AS 11.41 rather than classifying it

in AS 11.66. Although he disagreed, he understood that arguments could be made that there were similarities between them. However, he opined that this makes significant, substantive changes, but he acknowledged someone could make an opposite argument. He admitted that the Department of Law did not clarify why locating sex trafficking in AS 11.66 had other implications.

[2:06:45 PM](#)

SENATOR HUGHES wondered if it was included in AS 11.66 because the perception years ago was that the people involved in prostitution were as guilty as those running the business. Since then, the perception has changed, and people recognize that perhaps most prostitutes are being coerced.

[2:07:56 PM](#)

MR. SKIDMORE referred to case law from Johnson v. State in 1972. He related that the Alaska Supreme Court in 1972 found that prostitutes couldn't be trusted, and that corroboration was necessary because people engaging in prostitution had physiological problems or other issues that made them untrustworthy. He related that the case says, in prostitution, there is "no injured female" within the meaning of that phrase used in another Alaska statute. It noted that courts have also recognized that motives such as overt malice might lead to unfounded allegations of sexual misbehavior. Psychological motives may cause even mature complainants to bring false charges. He offered his belief that prostitution is about public decency. He wondered who in their right mind would sell themselves.

MR. SKIDMORE highlighted that the crime of sex trafficking has only begun to be understood in the last 15 years. He noted that prostitution remains in AS 11.66, but modern-day sex slavery is a crime against a person, so sex trafficking should remain in AS 11.41 crimes against a person.

[2:10:41 PM](#)

SENATOR HUGHES asked whether she misused the term "prostitute."

MR. SKIDMORE offered his view that a prostitute is someone who willingly engages in that unlawful sexual conduct but has not been compelled or forced into it in some manner. He noted that a victim of sex trafficking is defined in statute.

[2:11:16 PM](#)

CHAIR HOLLAND withdrew his motion to adopt the committee substitute (CS) for SB 189, so Version A was before the committee.

2:11:30 PM

CHAIR HOLLAND asked if there were any constitutional issues with vacating a judgment infringing on the governor's power to pardon.

MR. SKIDMORE stated that under the Alaska Constitution the legislature is the branch of government that enacts laws, the executive branch enforces the laws, and the governor has the ability to pardon or grant clemency. The power of pardoning or granting clemency is when the government acknowledges that the person committed a crime and is guilty of that crime, but the governor shows mercy for some other reason. The legislature can decide when to decriminalize certain conduct or provide defenses for criminal conduct. The legislature can determine if any category of crimes should be adjusted. It does not violate the separation of powers because the governor does this individually, even if a group was selected for clemency.

2:13:40 PM

MR. SKIDMORE related that SB 189 allows a person convicted of prostitution to prove their defense and vacate the crime. Alaska does not have case law because it is a relatively new state, but California addressed this in homicide cases. He referred to People v Lambro, a 2019 case that concluded it would not violate the clemency power of the governor for the legislature to create a defense, authorize a defense, or lower a mens rea in a crime, thus allowing the crime to be vacated based on their change in the law. Alaska's post-conviction relief in AS 12.72.010(7) is similar because it indicates a person can petition to have their crime removed from their record if there is a significant change in the law. The challenge for post-conviction release is that it is currently limited to within two years of the conviction. Although he does not suggest lifting the two-year limitation, it illustrates that the legislature has the power to make the changes proposed. The Department of Law offers a different method for the same concept since vacating the conviction would infringe on clemency powers, so it is not a constitutional concern.

2:16:03 PM

SENATOR KIEHL agreed with the conclusion, but not the reasoning. He pointed out that there is group clemency, including Christmas clemencies that occurred in Alaska and nationally with President

Lincoln's amnesties. One difference being discussed here is that the governor's clemency power does not apply to municipal convictions. However, this vacatur of judgment would allow the Alaska Court System to vacate a conviction under a municipal code, which is a material substantive difference. He referred to art III, sec. 21 and stated that the governor's clemency powers are broad but do not include vacating a judgment. He argued that pardon, commutation and reprieve are not the same. Thus, this is a different type of remedy. He argued that this isn't impinging on or usurping the governor's executive clemency powers.

2:17:53 PM

CHAIR HOLLAND asked whether he saw any equal treatment issues that arise from vacating a prostitution charge, but not other similarly situated misdemeanors stemming from being a victim of sex trafficking.

MR. SKIDMORE answered no. He explained that the individuals are not similarly situated when charged for different crimes. The legislature can decide whether to apply this to prostitution or other crimes. Those crimes would be differently situated because they have committed different crimes.

2:18:39 PM

CHAIR HOLLAND wondered if a person engaging in prostitution in their own home without involving any other sex worker could result in a conviction for sex trafficking and forfeiture of their home.

MR. SKIDMORE answered no. The Department of Law drafted the bill relating to sex trafficking of another person, not themselves. He indicated that the legislature debated this topic when considering Senate Bill 91. He recalled only one instance where a law enforcement officer filed a complaint against a person for "sex trafficking" herself, but the Department of Law dismissed the case. However, it is possible someone might try to reach that conclusion if the language is not carefully crafted.

2:20:07 PM

SENATOR HUGHES recalled that the legislature could make a policy call to consider allowing other crimes to be vacated. She wondered if sex trafficked victims committed other offenses related to prostitution. Suppose a sex trafficked victim took drugs with a client and was arrested for that crime or committed shoplifting because they were told they needed to improve how they dress. She envisioned that these were the types of crimes tied to sex trafficking.

MR. SKIDMORE was unsure how frequently convictions for that type of conduct occur. He agreed that those circumstances could arise. Criminal conduct could occur since drugs are often traded or provided to victims to get them addicted and later withheld from them. He referred to the crime of coercion, noting that the threat of an accusation or crime can coerce someone to engage in sex trafficking or human trafficking. Sex traffickers can identify their target, develop a relationship with them, and encourage them to steal. Once the victim has stolen something, the sex trafficker can coerce them into committing other crimes by threatening to report them for theft. He characterized this as a policy decision for the legislature.

[2:23:27 PM](#)

CHAIR HOLLAND referred to vacating a judgment. He asked whether a person could enter an invalid petition and have another crime vacated because a prosecutor did not object.

[2:23:47 PM](#)

NANCY MEADE, General Counsel, Administrative Offices, Alaska Court System, Anchorage, Alaska, offered her belief that he was speaking to Section 34 of the committee substitute (CS) for SB 189.

[2:24:10 PM](#)

At ease

[2:24:35 PM](#)

CHAIR HOLLAND reconvened the meeting.

[2:24:40 PM](#)

MS. MEADE referred to page 20, Version B, to Sec. 12.72.100, the vacation of judgment of conviction for prostitution. She referred to lines 28-29 and said that if the prosecuting attorney did not file a response or does not oppose the petition, the court shall grant the vacation of judgment. She said that this should never happen. The preceding sentence [in subsection (b) reads, "The prosecuting authority shall file a response within 45 days" She suggested that this would cover the rare circumstance where no response was received. She understood his question related to the situation where the person's record is fundamentally flawed or does not allege any facts. She envisioned that the department's implementation plan would be to create a form that requires certain information to be submitted. She surmised that if the person did not fill out the form, they would be presenting something insubstantial to

the court. If so, the language on line 29 would require the court to grant the petition. She suggested the committee consider amending the language to say that the court may grant the petition without further proceedings, which would avoid taking up the court's time when no one opposes the relief. It would encourage the court to seek additional information if necessary.

2:26:49 PM

SENATOR MYERS pointed out that [subsection (b), lines 27-28 state, "The prosecuting authority shall file a response within 45 days after service of the petition." He suggested the committee amend the language to state that they have 45 days if the prosecuting authority wants to file a response.

MS. MEADE said that language was okay with her. She did not anticipate there would be many responses even if the language read "shall." She envisioned that the city prosecutor and the district attorney's offices were busy, so it was unlikely that they would prioritize opposing a B misdemeanor that happened 20 years ago.

2:28:10 PM

CHAIR HOLLAND recalled that about 66 of 1,000 prostitution convictions involved another charge. He asked whether she had figures on how many of those 66 cases involved a felony.

MS. MEADE directed attention to page 21, lines 19-20, of Version B, which read, "... AS 11.66.100(a)(1) or a similar municipal ordinance if the person was not convicted of a felony charge in that case; and." She related that she checked CourtView, and there were about 65 cases with other charges dating back to 2004. She highlighted that fewer than 10 cases involved the crime of prostitution plus a felony. She interpreted this language to mean these cases would not be removed from CourtView but the person could petition for vacating judgment for some other reason.

MS. MEADE clarified that the Alaska Court System would not remove the cases from someone's record, but they could remove them from CourtView. She explained that vacating a judgment differs from removing a conviction from CourtView. It may seem confusing, but thus far, in Alaska law, there are no provisions for vacating judgments.

2:30:49 PM

CHAIR HOLLAND held SB 189 in committee.

2:31:01 PM

There being no further business to come before the committee, Chair Holland adjourned the Senate Judiciary Standing Committee meeting at 2:31 p.m.